

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

MARIO THREATT,)	
)	
Plaintiff,)	
)	
VS.)	No. 17-1180-JDT-cgc
)	
CORPORAL WHITAKER, ET AL.,)	
)	
Defendants.)	

ORDER DIRECTING ENTRY OF JUDGMENT,
CERTIFYING AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH
AND DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS*

Plaintiff Mario Threatt filed a *pro se* civil complaint on August 7, 2017, in the U.S. District Court for the Middle District of Tennessee. (ECF No. 1.) At the time, Threatt was incarcerated at the Henry County Jail in Paris, Tennessee. On August 10, 2017, U.S. District Judge Waverly D. Crenshaw granted leave to proceed *in forma pauperis*, assessed the civil filing fee pursuant to the Prison Litigation Reform Act (PLRA), 28 U.S.C. §§ 1915(a)-(b), and transferred the case to this district. (ECF No. 7.)

On January 23, 2019, this Court issued an order dismissing the complaint for failure to state a claim but granting leave to file an amended complaint within 21 days. (ECF No. 13.) The order notified Threatt that if he “fails to file an amended complaint within the time specified, the Court will assess a strike pursuant to 28 U.S.C. § 1915(g) and enter judgment.” (*Id.* at 7.) That order was returned undeliverable on February 11, 2019, marked “Return to Sender,” and “Not Here.” (ECF No. 14.) However, Threatt has not submitted any change of address. Threatt also

has not filed an amended complaint, and the time within which to do so has expired. Therefore, judgment will be entered in accordance with the January 23, 2019, order dismissing the complaint for failure to state a claim, pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1).

Pursuant to 28 U.S.C. § 1915(a)(3), the Court must also consider whether an appeal by Threatt in this case would be taken in good faith. The good faith standard is an objective one. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). The same considerations that led the Court to dismiss this case for failure to state a claim also compel the conclusion that an appeal would not be taken in good faith. Therefore, it is CERTIFIED, pursuant to 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate Procedure 24(a), that any appeal in this matter by Threatt would not be taken in good faith. Leave to appeal *in forma pauperis* is DENIED.

For analysis under 28 U.S.C. § 1915(g) of future filings, if any, by Threatt, this is the second dismissal of one of his cases as frivolous or for failure to state a claim.¹ This strike shall take effect when judgment is entered. *See Coleman v. Tollefson*, 135 S. Ct. 1759, 1763-64 (2015).

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE

¹ Threatt previously filed *Threatt v. Delanno*, No. 1:06-cv-1064-JDT-STA (W.D. Tenn. Apr. 18, 2006) (dismissed for failure to state a claim).